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CASE NO. B-0185396-

[illegible]

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No. B185-396

DAVID W. MAYER

VS.

GOLDEN RULE INSURANCE COMPANY
AND UNITED HEALTHCARE
INSURANCE COMPANY

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IN THE DISTRICT COURT OF

TYLER COUNTY, TEXAS

60^{4h}
JUDICIAL DISTRICT

PLAINTIFF'S ORIGINAL PETITION

TO THE HONORABLE JUDGE OF SAID COURT:

NOW COMES DAVID W. MAYER, Plaintiff herein, and files this Original Petition against GOLDEN RULE INSURANCE COMPANY AND UNITED HEALTHCARE INSURANCE COMPANY and in support thereof would show the following:

I.

Pursuant to T.R.C.P. 190.1, Plaintiff asserts that this case is to be governed by the Level 3 discovery plan.

II.

Venue is appropriate in this County pursuant to §15.032 of the Texas Civil Practice and Remedies Code.

III.

Plaintiff is a resident of Beaumont, Jefferson County, Texas, and was a resident of Beaumont Texas, at the time the events making the basis of this lawsuit accrued.

 **COPY**

IV.

Defendant, GOLDEN RULE INSURANCE COMPANY is an insurance company that does business in the State of Texas, and may be served by serving its registered agent, C.T. Corporation System, at 350 N. St. Paul Street, Dallas, Texas 75201 pursuant to V.T.C.A., Insurance Code § 804.101 et.seq., or by sending a copy of the petition by registered or certified mail, return receipt requested, WITH DELIVERY RESTRICTED TO THE ADDRESSEE ONLY, pursuant to Tex.R.Civ.P. 106(a)(2).

SERVICE IS REQUESTED AT THIS TIME.

Defendant, UNITED HEALTHCARE INSURANCE COMPANY is an insurance company that does business in the State of Texas, and may be served by serving its registered agent, C.T. Corporation System, at 350 N. St. Paul Street, Dallas, Texas 75201 pursuant to V.T.C.A., Insurance Code § 804.101 et.seq., or by sending a copy of the petition by registered or certified mail, return receipt requested, WITH DELIVERY RESTRICTED TO THE ADDRESSEE ONLY, pursuant to Tex.R.Civ.P. 106(a)(2).

SERVICE IS REQUESTED AT THIS TIME.

V.

All conditions precedent to any recovery herein have been performed or have occurred.

VI.

It has become necessary to bring this suit due to the failure of GOLDEN RULE INSURANCE COMPANY AND UNITED HEALTHCARE INSURANCE COMPANY to honor

its obligations to Plaintiff. Plaintiff is a beneficiary of a health insurance contract with GOLDEN RULE INSURANCE COMPANY AND UNITED HEALTHCARE INSURANCE COMPANY, identification number: 058535580, (hereinafter referred to as “the policy”). The policy provides health/medical benefits to Plaintiff. The policy is legally obligated to pay Plaintiff benefits pursuant to the terms of the policy. GOLDEN RULE INSURANCE COMPANY AND UNITED HEALTHCARE INSURANCE COMPANY, as insurer, agreed to pay these benefits. GOLDEN RULE INSURANCE COMPANY AND UNITED HEALTHCARE INSURANCE COMPANY breached its obligations to Plaintiff under the policy when it denied Plaintiff’s benefits.

VII.

Plaintiff entered into an insurance contract with Defendant, then when Plaintiff attempted to make a claim with GOLDEN RULE INSURANCE COMPANY AND UNITED HEALTHCARE INSURANCE COMPANY, his claim was denied by and through Defendant GOLDEN RULE INSURANCE COMPANY AND UNITED HEALTHCARE INSURANCE COMPANY .

VIII.

The above facts give rise to the following causes of action:

1. **Breach of Contract.** The conduct described above constitutes a breach of the insurance policy. This Plaintiff has incurred a covered loss, which should have been compensated by Defendant. Defendant has failed to perform its obligations under the contract, by failing to pay claims submitted.

2. **Texas Insurance Code, Chapter 542 Violations.** Defendant failed to timely provide all of its reasons for the rejection of Plaintiff’s claim within the applicable deadlines established by § 542.056, and failed to pay the claims within the applicable deadlines established by § 542.057. Defendant further failed to request additional information within the applicable deadlines established by § 542.055. All

of these violations entitle Plaintiff to his damages, eighteen (18%) percent interest per annum on his damages, and attorneys fees and expenses under § 542.060.

3. **Texas Insurance Code, Chapter 541 Violations.** In the process of rescinding this policy, Defendant made untrue statements of material fact and misrepresented material facts. This conduct violates § 541.060 and § 541.061 of the Texas Insurance Code. Defendant knowingly committed these acts.

4. **Unfair Claim Settlement Practices.** Defendant's conduct described above violates Chapter 542.003 of the Texas Insurance Code.

IX.

The conduct described in this petition was a producing and proximate cause of damage to Plaintiff.

X.

The damages sought by Plaintiff exceed the minimum jurisdictional limits of this Court.

XI.

Pleading further, Plaintiff would show that he is entitled to declaratory relief, pursuant to Chapter 37 of the Texas Civil Practices and Remedies Code.

XII.

The evidence at trial will show that GOLDEN RULE INSURANCE COMPANY AND UNITED HEALTHCARE INSURANCE COMPANY justified its rescision of the policy by claiming Plaintiff made a material misrepresentation on his application for insurance. This was untrue.

XIII.

The conduct of Defendant as described above, creates uncertainty, and insecurity with respect

to Plaintiff's rights, status, and other legal relations with Defendant. Plaintiff, therefore, requests this Court exercise its power afforded under §37.001 et. seq. of the Texas Civil Practice and Remedies Code, and declare the specific rights and statuses of the parties herein. Specifically, Plaintiff requests this Court review the facts and attending circumstances and declare he made no material misrepresentation on his application for insurance.

XIV.

Plaintiff prays that the Court award costs and reasonable and necessary attorneys fees which are equitable and just under §37.009 of the Texas Civil Practices and Remedies Code, §38.001 of the Texas Civil Practices and Remedies Code, and Chapters 541 and 542 of the Texas Insurance Code.

WHEREFORE, PREMISES CONSIDERED, Plaintiff respectfully prays that Defendants be cited to appear herein, and that on final trial, Plaintiff recover his damages, including benefits under the policy, statutory additional damages, treble damages, and attorneys fees and costs incurred in prosecuting this suit, as well as prejudgment and post-judgment interest at the highest lawful rate, costs of court, and that this Court issue a judgment resolving the uncertainty and insecurity Defendant has created, and for such further general relief as warranted.

Respectfully submitted,

BY: _____

JONATHAN C. JAHAN
SBN: 11047225
Attorney for Plaintiff
985 I-10 N Suite 100
Beaumont, Texas 77706
409/832-8877 TELEPHONE
409/924-8880 FACSIMILE

I CERTIFY THIS AS A TRUE COPY
Witness my Hand and Seal of Office

DEC 11 2009

LOLITA RAMOS, DISTRICT CLERK
JEFFERSON COUNTY, TEXAS

BY *[Signature]* DEPUTY

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CITATION

THE STATE OF TEXAS

No. B-0185396

**DAVID W MAYER
VS. GOLDEN RULE INSURANCE COMPANY ET AL**

CITATION

**60 th JUDICIAL DISTRICT COURT
of JEFFERSON COUNTY, TEXAS**

To: **GOLDEN RULE INSURANCE COMPANY
BY SERVING ITS REGISTERED AGENT
CT CORPORATION SYSTEM**

by serving at:
350 N ST PAUL ST

DALLAS, TX 75201

DEFENDANT:

NOTICE:

You have been sued. You may employ an attorney. If you or your attorney do not file a written answer with the clerk who issued this citation by 10:00 a.m. on the Monday next following the expiration of twenty days after you were served this citation and petition, a default judgment may be taken against you. Said answer may be filed by mailing same to: District Clerk's Office, 1001 Pearl St., 2nd floor, Beaumont, TX 77701, or by bringing it to the office. The case is presently pending before the 60 th District Court of Jefferson County sitting in Beaumont, Texas, and was filed on the 24th day of November, 2009. It bears cause number B-0185396 and is styled:

DAVID W MAYER
VS.
GOLDEN RULE INSURANCE COMPANY ET AL

Plaintiff:

Defendant:

The name and address of the attorney for plaintiff (or plaintiff if pro se) is:

**JUHAN, JONATHAN, Atty.
985 I-10 NORTH SUITE 100
BEAUMONT, TX. 77706 0**

The nature of the demands of said plaintiff is shown by a true and correct copy of Plaintiff's PETITION (PLAINTIFF'S ORIGINAL) accompanying this citation and made a part thereof.

Issued under my hand and the seal of said court, at Beaumont, Texas, this the 1st day of December, 2009.

**LOLITA RAMOS, DISTRICT CLERK
JEFFERSON COUNTY, TEXAS**

BY
Casi

Casi Hernandez

Deputy



CT Corporation

**Service of Process
Transmittal**

12/03/2009

CT Log Number 515813120

TO: Rebecca Thompson
UnitedHealth Group Incorporated (111504190770700600)
9900 Bren Road East, MN008-T700
Minnetonka, MN 55343

RE: Process Served in Texas

FOR: Golden Rule Insurance Company (Domestic State: IN)

ENCLOSED ARE COPIES OF LEGAL PROCESS RECEIVED BY THE STATUTORY AGENT OF THE ABOVE COMPANY AS FOLLOWS:

TITLE OF ACTION: David W. Mayer, Pltff. vs. Golden Rule Insurance Company and United Healthcare Insurance Company, Dfts.

DOCUMENT(S) SERVED: Citation, Return, Original Petition

COURT/AGENCY: 60th Judicial District Court Jefferson County, TX
Case # B0185396

NATURE OF ACTION: Insurance Litigation - Breach of contract, failure to honor its obligations pursuant to the terms of the Policy

ON WHOM PROCESS WAS SERVED: C T Corporation System, Dallas, TX

DATE AND HOUR OF SERVICE: By Certified Mail on 12/03/2009 postmarked on 12/01/2009

APPEARANCE OR ANSWER DUE: By 10:00 a.m. on the Monday next following the expiration of 20 days

ATTORNEY(S) / SENDER(S): Jonathan Juhan
985 I-10 N.
Suite 100
Beaumont, TX 77706
409-832-8877

ACTION ITEMS: CT has retained the current log, Retain Date: 12/03/2009, Expected Purge Date: 01/02/2010
Image SOP
Email Notification, Administrative Assistant legalmail@uhc.com

SIGNED: C T Corporation System
PER: Beatrice Casarez
ADDRESS: 350 North St Paul Street
Suite 2900
Dallas, TX 75201
TELEPHONE: 214-932-3601

Page 1 of 1 / RJ

Information displayed on this transmittal is for CT Corporation's record keeping purposes only and is provided to the recipient for quick reference. This information does not constitute a legal opinion as to the nature of action, the amount of damages, the answer date, or any information contained in the documents themselves. Recipient is responsible for interpreting said documents and for taking appropriate action. Signatures on certified mail receipts confirm receipt of package only, not contents.

RETURN

Came to hand on 1 day of December, 2009
 at 12:01 o'clock P M. and executed in _____
 County, Texas, by delivering to each of the within named

_____ in person a true copy of this citation, with the date of delivery endorsed thereon and the accompanying copy of _____ at the following times and places, to wit:

Name	DATE			TIME			Place, Course and Distance from Courthouse
	Month	Day	Year	Hour	Min	M.	

Service Fee \$ _____

Valerie Brittain SCH# 5819
 _____ Sheriff/Constable

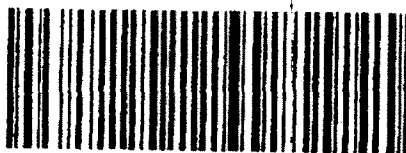
_____, County, Texas

By: _____ Deputy



Authorized Process
604 Park Street
Beaumont, Texas 77701

CERTIFIED MAIL



7007 0220 0000 9524 3522



C T Corporation System
350 N Saint Paul St
Dallas TX 75201-4240



\$5.710
US POSTAGE
FIRST-CLASS
FROM 77701
DEC 01 2009

stamps.com



06250005409643

COURT DOCKETS

NOTICE TO ALL COUNSEL REGARDING INTERNET DOCKET POSTING

December, 2009 Docket

January, 2010 Docket

Hearing Dockets

December 4, 2009

Active Cases

District Courts



4

NO. B185-396

DAVID W. MAYER,

Plaintiff,

v.

GOLDEN RULE INSURANCE
COMPANY and UNITED HEALTHCARE
INSURANCE COMPANY,

Defendants.

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IN THE DISTRICT COURT

JEFFERSON COUNTY, TEXAS

60TH JUDICIAL DISTRICT

FILED
DISTRICT COURT OF
JEFFERSON CO TEXAS

'09 DEC 16 AIO :10

Lolita Ramos
LOLITA RAMOS
DISTRICT CLERK

DEFENDANTS' ANSWER

Defendants Golden Rule Life Insurance Company ("Golden Rule") and United HealthCare Insurance Company (collectively, the "Defendants") file their answer, and state:

1. Subject to such admissions and stipulations as may be made at or before time of trial, Defendants deny generally and specially the material allegations in Plaintiff's Petition, pursuant to Tex. R. Civ. P. 92, and demand strict proof thereof in accordance with the requirements of the laws of this state.

2. No benefits are payable under the subject insurance certificate inasmuch as the certificate is void and never came into force because, pursuant to Tex. Ins. Code §705.001, *et seq.*, material misrepresentations were made on the insurance application, not disclosed on the application or during the underwriting process, and relied on by Golden Rule in issuing the subject certificate.

3. Defendants request the following relief:

- (a) That Plaintiff take nothing by reason of his suit;
- (b) That Defendants be dismissed with their costs; and

- (c) That Defendants have such other and further relief, both general and special, at law and in equity, to which they may show themselves justly entitled.

Respectfully submitted,

By: _____

Andrew G. Jubinsky
State Bar No. 11043000
Raymond E. Walker
State Bar No. 24037663

FIGARI & DAVENPORT, L.L.P.
3400 Bank of America Plaza
901 Main Street
Dallas, Texas 75202
(214) 939-2000
(214) 939-2090 (FAX)

ATTORNEYS FOR DEFENDANTS

CERTIFICATE OF SERVICE

This is to certify that a true and exact copy of the foregoing document was served via certified mail, return receipt requested, to Jonathan Juhan, 985 I-10 N, Suite 100, Beaumont, Texas 77706 on the 15th day of December, 2009.

Andrew G. Jubinsky